

DEPARTMENT OF SOCIAL SERVICES
744 P Street Sacramento, CA 95814

February 19, 1997

ALL-COUNTY LETTER NO. 97-08

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY FOOD STAMP COORDINATORS

Reason for this Transmittal

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | State Law Change |
| <input checked="" type="checkbox"/> | Federal Law Change |
| <input type="checkbox"/> | Court Order or Settlement Agreement |
| <input checked="" type="checkbox"/> | Clarification Requested by One or More Counties |
| <input type="checkbox"/> | Initiated by CDSS |

SUBJECT: IMPLEMENTATION OF THE ABAWD WORK REQUIREMENT AND FOOD STAMP SANCTION INSTRUCTIONS

The purpose of this letter is to transmit emergency regulations, commonly asked questions and responses, and food stamp notices of action (NOAs) to implement revised sanction requirements and the food stamp work requirement for Able-Bodied Adults Without Dependents (ABAWDs).

Enclosure I contains emergency ABAWD regulations which were effective February 1, 1997. These regulations provide that nonexempt individuals may receive food stamps for three months during a 36-month period without satisfying the ABAWD work requirement. This requirement can be met when the individual:

- Works an average of 20 hours per week;
- Participates in a workfare assignment; or
- Participates at least 20 hours per week in an allowable work activity such as a Food Stamp Employment and Training (FSET) component, other than job search.

The ABAWD regulations define the 36-month period as a fixed period and specify that the ABAWD work requirement took effect November 22, 1996. For all persons, the fixed 36-month period begins with the first full calendar month they are subject to the ABAWD work requirement.

In addition, the regulations contained in Enclosure I repeal FSET conciliation procedures and amend sanction requirements for food stamp recipients who fail to comply with Greater Avenues for Independence (GAIN) or unemployment compensation work requirements. The regulations also expand county disclosure requirements by mandating that information obtained from food stamp applicant households be shared with law enforcement officials to assist in the apprehension of fleeing felons and parole/probation violators.

Enclosure II contains commonly asked questions and responses involving the ABAWD work requirement, food stamp workfare assignments, and revised food stamp sanction regulations. It is important to note that the responses contained in this letter are subject to change if revised policies are issued by the Food and Consumer Service (FCS).

Enclosure III contains the following notices for use in applying food stamp sanctions and in discontinuing benefits to those who fail to meet the ABAWD work requirement:

- The revised Food Stamp Notice Of Disqualification (DFA 377.10). This notice is used in applying sanctions to nonexempt work registrants who:

- o Fail to comply with an FSET assignment;
- o Fail to respond to a request for information regarding employment status;
- o Fail to report to an employer to whom referred;
- o Fail to accept an offer of suitable employment;
- o Reduce hours worked to less than 30 per week; or
- o Voluntarily quit employment.

- The new Food Stamp Notice of Discontinuance (DFA 377.11). This notice is used to discontinue food stamps to persons who:

- o Fail to satisfy the ABAWD requirement for more than three months during their fixed 36-month period; or
- o Regain eligibility, but subsequently do not comply with the ABAWD requirement after receiving food stamps for the three "free" months available to those who regain eligibility.

The DFA 377.10 and the DFA 377.11 should be concurrently issued to a food stamp recipient when the following conditions are met:

- o The individual is a food stamp work registrant who is also subject to the ABAWD work requirement;
- o The registrant is being sanctioned for failing to comply with an activity which also satisfied the ABAWD work requirement; and
- o The registrant has failed to meet the ABAWD work requirement for a sufficient number of months to retain eligibility.

Counties can obtain camera-ready copies of the English and/or Spanish version of these notices by calling or writing:

CDSS Forms Management Unit
744 P Street, MS 7-182
Sacramento, CA 95814
(916) 657-1907/ATSS 437-1907

Counties can obtain camera-ready copies of the Cambodian, Chinese, Lao or Vietnamese translation of these notices by calling or writing:

CDSS Language Services Bureau
744 P Street, MS 9-024
Sacramento, CA 95814
(916) 654-1282/ATSS 464-1282

If you have any questions regarding this letter, please contact your Employment Operations analyst at (916) 657-3403.



BRUCE WAGSTAFF
Deputy Director
Welfare Programs Division

Enclosures

Amend Section 63-201.313 to read:

63-201 GENERAL TERMS AND CONDITIONS (Continued)

63-201

.3 Disclosure

.31 Use or disclosure of information obtained from food stamp applicant households, exclusively for the Food Stamp Program shall be restricted to the following persons: (Continued)

.313 Local, state or federal law enforcement officials, ~~upon their written request,~~

(a) ~~f~~For the purpose of investigating an alleged violation of the Food Stamp Act or regulations.

(a1) The officer shall submit a written request ~~shall~~ that includes the identity of the individual requesting the information and his authority to do so, the violation being investigated, and the identity of the person on whom the information is being requested.

(b) For the purpose of obtaining the address, social security number, and a photograph (when available) of a food stamp recipient who is fleeing to avoid prosecution, custody or confinement for a felony, or is violating a condition of parole or probation, or has information necessary for the officer to conduct an official duty related to flight by a food stamp recipient to avoid prosecution, custody or confinement for a felony, or related to violation by a food stamp recipient of a condition of probation or parole.

(1) The officer shall furnish the recipient's name, and notify the CWD that:

(A) the individual fits one of the categories as specified in Section 63-201.313(b),

(B) apprehending or locating the individual is an official duty, and

(C) the request is being made in the proper exercise of an official duty. (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18904, Welfare and Institutions Code; and P.L. 104-193 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996) Section 837, 7 U.S.C. 2020(e)(8).

Amend Sections 63-407.5 and .6 to read:

63-407 WORK REGISTRATION REQUIREMENTS (Continued)

63-407

.5 Failure To Comply (Continued)

.52 Within 10 days of determining that noncompliance with any of the ~~general~~ Food Stamp work requirements at Sections 63-407.42, .43, and .44 was without good cause, as specified in Section 63-407.51, the CWD shall issue a notice of action informing the registrant of the disqualification. In addition to the requirements specified in Section 63-504.21, the notice shall contain a description of the act of noncompliance, the minimum length of the food stamp sanction and shall specify that the individual may reapply at the end of the disqualification period. Information shall also be included describing the action which can be taken to end the sanction, in accordance with Section 63-407.6. (Continued)

.54 ~~If the CWD determines that a household member~~ When an individual who is registered for work under the programs specified in Sections 63-407.21(c) or (e), or in a substitute program as specified in Section 63-407.23, has refused or failed without good cause to comply is sanctioned under that program for noncompliance with a work requirement, the CWD shall determine if the requirement is comparable to the food stamp work requirements specified in Section 63-407.4 individual shall also receive Food Stamp sanctions in accordance with Section 63-407.5.

~~A requirement shall be considered comparable if it is imposed in the same category of activity, as described in Section 63-407.841, and the participant's level of effort does not exceed that of the FSET Program component offered in the county.~~

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~~Example 1 - A GAIN participant fails to comply with a basic education activity which requires attendance of 40 hours per month. The county's FSET Program consists of Job Search requiring 12 hours effort per week for two weeks. These are not comparable, as the activities are not in the same category.~~

~~Example 2 - A participant fails to comply in a General Assistance Workfare program, which requires 140 hours per month of attendance. The county's FSET workfare component may not require participants to work more than 120 hours per month. They are not comparable since the level of effort exceeds that of the FSET Program.~~

Example 3 - A participant fails to comply in a WIN/Demo Job Search program requiring four job contacts per week for one month. The county's FSET Program offers a Job Search component which requires 20 job contacts per month. These are comparable programs since the category of activity is the same and the level of effort does not exceed that of the FSET Program.

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~~.541 If the CWD determines that the work requirement is comparable, the individual shall be disqualified in accordance with Section 63-407.53. The individual shall be notified of the disqualification as specified in Section 63-407.52.~~

~~(a) An individual who becomes exempt in accordance with Sections 63-407.21a, b, d, f, g, or h may reestablish eligibility following completion of the minimum sanction period identified in Section 63-407.53.~~

~~.542 If the CWD determines that the work requirement is not comparable, the individual shall not be disqualified. However, if the individual:~~

~~(a) Is in a program specified in Sections 63-407.21(c) or (e), that person shall lose his/her food stamp work registration exemption and shall be registered for work, if required in Section 63-407.1.~~

~~(b) Is in a program specified in Section 63-407.23, that person shall be subject to the FSET Program requirements in Section 63-407.8.~~

.542 An individual shall not be disqualified if, prior to the effective date of the sanction identified in Section 63-407.53, that individual becomes exempt in accordance with Sections 63-407.21(a), (b), (d), (f), (g), or (h). An individual who receives Food Stamp sanctions in accordance with Section 63-407.54 and subsequently qualifies for any of the exemptions listed in this section may reestablish eligibility following completion of the minimum sanction period identified in Section 63-407.531, .532, or .533.

~~.56 Conciliation~~

~~The CWD shall determine if there is good cause and attempt to resolve the problems when a work registrant fails to comply with the FSET Program requirements specified in Section 63-407.41. The conciliation period shall begin on the day following discovery of the noncompliance by the CWD employee(s) responsible for administering FSET conciliation and shall not exceed 30 calendar days.~~

~~.561 The CWD shall inform the registrant in writing of his/her opportunity to both demonstrate good cause for the noncompliance and to avoid Food Stamp sanctions by performing a verifiable act of compliance. The CWD shall issue the notice within seven working days of the beginning of conciliation. The notice shall:~~

- ~~(a) Identify the program requirement with which the registrant failed to comply.~~
- ~~(b) Specify that the registrant has entered a period of conciliation that shall not exceed 30 calendar days.~~
- ~~(c) Provide that within the conciliation period, the registrant shall contact the CWD either in person, or by telephone to present the reason(s) for the noncompliance and to learn whether such reason(s) constitute good cause as specified in Section 63-407.51.~~
- ~~(d) Inform the registrant that failure to contact the CWD shall result in a cause determination based on available information.~~
- ~~(e) Specify that if a determination of no good cause is made, the registrant can avoid Food Stamp sanctions by complying with program requirements.~~
 - ~~(1) The notice shall describe the specific actions the registrant must take to achieve compliance and identify the date by which compliance must be achieved if sanctions are to be avoided.~~
 - ~~(A) As specified in Section 63-407.564(a), this date is the final day of the 30-calendar-day conciliation period.~~
- ~~(f) Describe those costs specified in Section 63-407.83 for which the registrant may be reimbursed if such costs are necessary to enable the registrant to provide good cause information or achieve compliance within conciliation.~~
- ~~(g) Identify the consequences of failing to comply by the end of conciliation.~~

~~.562 The CWD shall determine whether good cause existed for the noncompliance as specified in accordance with Section 63-407.51.~~

- (a) ~~If the registrant fails to contact the CWD, a cause determination shall be made based on available information.~~
 - (b) ~~When the registrant subsequently submits good cause information within the period of conciliation, such information shall be considered by the CWD and may result in the reversal of a no good cause determination.~~
- ~~.563 If the CWD determines that good cause existed for the noncompliance, the CWD shall:~~
- (a) ~~Determine if the problem resulting in the noncompliance has been resolved so that the registrant can immediately resume participation.~~
 - (b) ~~Determine if the registrant should be exempted or deferred as specified in Sections 63-407.21 and .811.~~
- ~~.564 When the CWD determines that no good cause existed for the noncompliance, the registrant must perform a verifiable act of compliance if Food Stamp sanctions are to be avoided. Verbal commitment is not sufficient unless the registrant is prevented from complying by circumstances beyond his/her control such as the unavailability of a suitable component.~~
- (a) ~~The registrant must comply by the end of the 30-calendar-day conciliation period identified in Section 63-407.56 if conciliation is to be considered successful.~~
 - (b) ~~Actions required for successful conciliation shall be limited to those which can be accomplished within the 30-day time limit specified in Section 63-407.56.~~

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- (c) ~~Activities which the CWD may require for successful conciliation include, but are not limited to, attending a job search workshop or submitting a report of job contacts.~~

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- ~~.565 If the registrant fails to comply by the end of conciliation, the CWD shall issue a notice of action informing the individual of the disqualification. (See Section 63-407.52 for a description of this notice.)~~

- (a) ~~The notice shall be issued no later than the final day of conciliation.~~
- (b) ~~When the notice is issued prior to the end of conciliation and the CWD subsequently verifies that good cause existed for the noncompliance, or that compliance was achieved by the end of conciliation, the notice shall be cancelled.~~
- (c) ~~Notwithstanding Section 63-407.52, the period of disqualification shall not begin prior to expiration of the 30-calendar-day conciliation period specified in Section 63-407.56.~~

.6 Ending Disqualification

.61 If an individual is otherwise eligible following completion of the minimum sanction period identified in Section 63-407.53, eligibility may be reestablished if the individual: (Continued)

.612 Complies as follows: (Continued)

- (c) If the individual was disqualified for refusal to accept a bona fide offer of suitable employment, the individual shall accept this employment, if still available to the participant; accept any other employment which yields earnings per week equivalent to the refused job; or accept any other employment of at least 30 hours per week, with or which yields weekly earnings equal to the federal minimum wage multiplied by 30 hours. (Continued)

.62 An individual subject to the requirements of Section 63-410 who is also disqualified for failing to comply with the requirements of that section, may not regain eligibility until the conditions of Section 63-410 are met.

Authority Cited: Sections 10553, 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18904, Welfare and Institutions Code; 7 CFR 273.1(d)(2); 7 CFR 273.7(d)(1)(ii)(A) and (E); 7 CFR 273.7(f), (f)(1)(vi), (f)(2), and (f)(4)(ii); 7 CFR 273.7(g)(1)(ii) and (iii) (h); 7 U.S.C. 2014(e), ~~and~~ 7 U.S.C. 2015(d)(1), (d)(2), (d)(4)(i)(II), and (o); U.S.D.A. Food and Nutrition Service Administrative Notice 94-39; ~~and 7 U.S.C. 2015(d)(1);~~ Public Law 104-193, Sections 815, 817, 819 and 824 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996).

Adopt Section 63-408.62 to read:

63-408 VOLUNTARY QUIT (Continued)

63-408

.6 Ending a Voluntary Quit Disqualification (Continued)

.62 An individual subject to the requirements of Section 63-410 who is also disqualified for failing to comply with the requirements of that section, may not regain eligibility until the conditions of Section 63-410 are met.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18904, Welfare and Institutions Code; California Code of Regulations, Title 22, Division 12, Chapter 1 commencing with Section 101151, Chapter 2 commencing with Section 101251, and Chapter 3 commencing with Section 102351.1; and 7 U.S.C. 2015(d)(1) and (o), Public Law 104-193, Sections 815 and 824 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996).

Adopt Section 63-410 to read:

63-410 FOOD STAMP WORK REQUIREMENT FOR ABLE-BODIED
ADULTS WITHOUT DEPENDENTS (ABAWD)

63-410

An individual not exempt under Section 63-410.3 shall be ineligible for food stamps if, during the 36-month period identified in Section 63-410.1, the individual received food stamps for three months or more without satisfying the participation requirements or exemption criteria of Section 63-410.2 or .3, respectively. The 36-month period referred to in this section does not include any period prior to November 22, 1996.

.1 36-month Period Defined; Tracking ABAWD Compliance

- .11 The 36-month period identified in Section 63-410 begins November 22, 1996 for all food stamp recipients who are subject to the ABAWD work requirement on that date and such persons' compliance with this requirement shall begin on December 1, 1996. For all other food stamp applicants and recipients, the 36-month period begins on the first day of the the first full calendar month such persons become subject to the ABAWD work requirement.
- .12 The period identified in Section 63-410.11 is a fixed period which continues uninterrupted for 36 months regardless of the number of times an individual becomes exempt in accordance with Section 63-410.3 or leaves the Food Stamp Program and subsequently reapplies.
- .13 A county is not required to begin tracking an individual's food stamp eligibility based on compliance with, or exemption from, the ABAWD work requirement until the first month of the 36-month period identified in Section 63-410.11.
- .14 Each month the CWD is required to update the appropriate screen in the Medi-Cal Eligibility Data System (MEDS) to indicate an individual's work or exemption status. The update shall be done after the month's food stamp issuance and before the next month's food stamp issuance.

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Example - An individual applies for food stamps for the first time in March 1997 and is determined exempt from the ABAWD work requirement. The individual's exemption ends during December 1997 and he becomes subject to the ABAWD work requirement as of January 1, 1998. The county would track the individual's ABAWD compliance or exemption status for all months food stamps are received during the 36-month period which began January 1, 1998 and ends December 31, 2000.

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.2 ABAWD Work Requirement Defined

.21 The ABAWD work requirement is fulfilled by performing one of the following:

.211 Working 20 hours or more per week (averaged monthly);

.212 Participating in a workfare program as defined in Section 20 of the Food Stamp Act (7 U.S.C 2029) or in a comparable program; or

.213 Participating in an allowable "work program" for 20 hours or more per week. For purposes of this section, an allowable work program means one of the following:

(a) A program under the Job Training Partnership Act;

(b) A program under Section 236 of the Trade Act of 1974 (19 U.S.C. 2296); or

(c) A program of employment and training approved by a state agency, including the Food Stamp Employment and Training (FSET) program described in Section 63-407.8.

(1) Hours spent in job search or job search training activities as part of an employment and training program shall not count toward completion of the ABAWD work requirement.

.3 Exemptions

The following individuals are exempt from the ABAWD work requirement:

.31 Persons exempt from the work registration requirements as specified in Section 63-407.21, except for those exempt for working a minimum of 30 hours weekly or receiving weekly earnings at least equal to the Federal minimum wage multiplied by 30 hours (Section 63-407.21(g));

.32 An individual who is:

.321 Under 18 or over 50 years of age;

.322 Pregnant; or

.323 A parent or other household member responsible for a dependent child.

.33 Persons living in any portion of the state which has received Federal approval to waive application of the ABAWD work requirement shall also be considered exempt from the requirements of Section 63-410.

.34 Those months during which an individual is exempt in accordance with Section 63-410.3 shall not be considered in determining whether the participation requirement identified in Section 63-410 has been satisfied.

.35 Persons who become exempt after having lost eligibility in accordance with Sections 63-410.4 or .522, are not subject to the ABAWD work requirement while exempt and may receive food stamps if otherwise eligible.

.4 Loss of Eligibility and Food Stamp Overissuance

.41 When the CWD determines that an individual has failed to meet the ABAWD work requirement for three months during the 36-month period identified in Section 63-410.1, the CWD shall issue a timely notice in the third month to discontinue the individual's food stamp benefits. In addition to the requirements specified in Section 63-504.21, the notice shall:

.411 Identify the reason the individual's food stamps are being discontinued;

.412 List those months for which the CWD has determined that the ABAWD work requirement was not satisfied;

.413 Provide that the individual may present evidence which demonstrates that the ABAWD work requirement was fulfilled for any of the months identified in Section 63-410.412; and

.414 Specify how the individual may regain eligibility in accordance with Section 63-410.5.

.42 If the individual submits evidence which demonstrates that the ABAWD work requirement was satisfied to permit continued eligibility, the notice identified in Section 63-410.41 shall be rescinded and any food stamps inappropriately denied shall be restored.

.43 The period of ineligibility shall begin with the first full month following expiration of the adverse notice period, unless a state hearing is requested. If a state hearing is requested, benefits shall continue in accordance with Section 63-804.6.

.431 Each individual has a right to a state hearing to appeal a termination or reduction of benefits due to a determination of nonexempt status, or a determination of failure to satisfy the ABAWD work requirement.

.44 Determinations of ineligibility shall be made when the CWD becomes aware that a nonexempt recipient has failed to meet the requirements of Section 63-410.

- .45 Any months for which food stamps were received beyond the three-month limit identified in Sections 63-410 and/or 63-410.52 shall be considered an overissuance and requirements at Section 63-801.1 shall apply.

.5 Regaining Eligibility

- .51 An individual denied eligibility for failing to satisfy the ABAWD work requirement may regain eligibility if, during a 30-day period, the individual performs one of the following:

.511 Works for 80 or more hours;

.512 Participates in a workfare assignment; or

.513 Participates in an allowable work program as defined in Section 63-410.213 for at least 80 hours.

- .52 When, during the 36-month period identified in Section 63-410, an individual subsequently stops performing the ABAWD work requirement after regaining eligibility in accordance with Section 63-410.5, that person shall remain eligible for a period of three consecutive months, beginning on the date the individual notifies the county that he/she is not satisfying the ABAWD work requirement.

- .521 The three-month period of eligibility identified in Section 63-410.52 is available to an individual only once during a 36-month period. Upon completion of this three-month period, an individual is ineligible for food stamps for the remainder of the 36-month period, unless he/she becomes exempt or satisfies the ABAWD work requirement for each month food stamps are requested.

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Example - A nonexempt individual fails to comply with the 20-hour work requirement during months two, three and four of the 36-month period and so is ineligible for food stamps. In month seven, the client obtains employment and works more than 80 hours during that month. At the beginning of month eight, the client loses the job. The client can receive food stamps for months eight, nine, and ten, regardless of whether the ABAWD work requirement is satisfied. Beginning with month eleven and for the remaining months of the 36-month period, the client can only receive food stamps for those months during which he is exempt from or in compliance with the ABAWD work requirement.

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.522 When an individual fails to satisfy the ABAWD work requirement after completion of the three-month period identified in Section 63-410.52, requirements at Section 63-410.4 shall apply, except that the notice required by Section 63-410.41 shall specify that the individual can only receive food stamps if one of the conditions identified in Section 63-410.521 is met.

.53 Notwithstanding any other provision of this section, when an individual fails without good cause to comply with an ABAWD work requirement and the noncompliance is a sanctionable action under Section 63-407 or Section 63-408, the individual may not reestablish eligibility until the minimum sanction period identified in Section 63-407.53 is completed.

Authority Cited: Sections 10553, 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18904, Welfare and Institutions Code; 7 U.S.C. 2015 (d)(1) and (o); and Public Law 104-193, Sections 815 and 824 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996); Implementation instructions received from Yvette S. Jackson, Deputy Administrator, Food and Consumer Service (FCS), in August 1996; and Waiver letter received from Yvette S. Jackson, Deputy Administrator, FCS, dated August 26, 1996.

Amend Section 63-503.51 to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT
LEVELS (Continued)

63-503

.5 Failure to Comply with Another Assistance Program's Requirements

- .51 The CWD shall not increase food stamp benefits when the household's benefits from another federal, state or local welfare or public assistance program have been reduced due to failure to comply with a requirement of that program. The provision does not apply when an individual recipient of food stamps household member who fails to comply or a food stamp household is subject to a food stamp work sanction imposed pursuant to Section 63-407.541. The following conditions apply: (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18904, Welfare and Institutions Code; 7 CFR 271.2; 7 CFR 272.3(c)(1)(ii); 7 CFR 273.1(b)(2)(iii); 7 CFR 273.2(j)(4); 7 CFR 273.10(a)(1)(iii)(B); 7 CFR 273.10(c)(2)(iii), (c)(3)(ii), proposed amended 7 CFR 273.10(d) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994, (d)(1)(i), (d)(2), (d)(3), (d)(4), and proposed (d)(8) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994, and proposed amended 7 CFR 273.10(e)(1)(i)(E-H) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994; 7 CFR 273.11(a)(2)(i), (c), (c)(1), (c)(2)(iii), (c)(3)(ii), (d)(1), and (e)(1); 7 CFR 273.21(f)(2)(ii), (iii), (iv), and (v), (g)(3), (j)(1)(vii)(B), and (S); (Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal. Feb. 1, 1990) ____ F. Supp. ____; Waiver Letter WFS-100:FS-10-6-CA, dated October 2, 1990, United States Department of Agriculture, Food and Nutrition Service; Administrative Notice No. 92-23, dated February 20, 1992 and No. 94-39; P.L. 100-435, Section 351, and P.L. 101-624, Section 1717; [7 U.S.C. 2012, 2014(e), and 2017(c)(2)(B)]; 7 U.S.C. 2015(d)(1); and P.L. 104-193, Sections 815, 827 and 829 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996).

QUESTIONS AND ANSWERS REGARDING THE ABAWD WORK REQUIREMENT,
FOOD STAMP WORKFARE AND WORK REGISTRATION SANCTIONS

ABAWD WORK REQUIREMENT

Q When does the 36-month period begin for the ABAWD work requirement?

A The 36-month period, as identified in Section 63-410.1, began November 22, 1996 for those subject to the ABAWD work requirement on that date.

For all individuals, the 36-month period begins with the first full calendar month they are subject to the ABAWD work requirement while in receipt of food stamp benefits. The 36-month period continues uninterrupted regardless of the number of times an individual becomes exempt, is denied food stamps, or regains eligibility by satisfying the ABAWD work requirement.

Q What must an individual do to regain food stamp eligibility after receiving food stamps for 3 months without meeting the ABAWD work requirement? Is willingness to work or participate in an allowable activity sufficient?

A An individual denied food stamps for not satisfying the ABAWD requirement may not regain eligibility until that individual either qualifies for one of the ABAWD exemption criteria or participates as follows during a 30-day period:

- o Works at least 80 hours;
- o Participates a minimum of 80 hours in an allowable work activity; or
- o Participates in a workfare assignment for the number of hours obtained by dividing the food stamp allotment for which the household would otherwise be eligible by the higher of the state or Federal minimum wage and rounding this figure to the nearest whole number.

Willingness to work or participate in an allowable activity is not sufficient for purposes of regaining eligibility.

Q Is the 30-day period within which an individual must participate to regain eligibility measured? Must this period be the 30 days prior to application, or can it be any 30 day period following the date food stamps are discontinued?

- A The 30-day period is measured from the first day the individual begins employment or participation in an allowable activity for a sufficient number of hours to satisfy the ABAWD work requirement. This period can be any period of 30 consecutive days during which the individual participates while ineligible for food stamps.
- Q An individual fails to comply with the ABAWD work requirement for the months of January, February and March. Since timely notice is required, would a notice discontinuing benefits be sent to the client by the 20th day of the third month in which work requirements are not met?
- A Regulations at MPP Section 63-410.41 specify that the notice to discontinue food stamp benefits shall be sent in the third month in which the ABAWD requirement is not being met. To comply with timely notice requirements, the notice would be sent by March 20 in the above example.
- Q In monthly reporting households the client has until the extended filing date to meet the reporting deadlines. A client received benefits for January, February and March without meeting the ABAWD work requirement. However, the county would only be aware of the client's inaction for January and February until receipt of the March CA7, which may be received as late as May 1. Would the county wait until receipt of the March CA 7 before discontinuing food stamps? If so, would benefits received while waiting for the CA 7 be considered an overissuance? If yes, would the overissuance be treated as an agency or client error?
- A The county would not wait until receipt of the March CA 7 in determining whether benefits should be discontinued. In the above example, a notice would be sent by March 20 informing the client that benefits would stop effective April 1. The discontinuance would be due to the failure to satisfy the ABAWD requirement for January and February and the absence of information indicating that the requirement was being met for March. Failure to discontinue food stamps until receipt of the March CA 7 could result in an overissuance which would be defined as an agency error.
- Q How is income budgeted for persons who have been denied food stamp benefits due to failure to satisfy the ABAWD work requirement?
- A In this instance income should be budgeted in the same way it is budgeted for those under sanction for failing to comply with the food stamp work requirements at MPP Section 63-407.4 or for voluntarily quitting employment.

- Q Will food stamps received for months beyond the three "free" months available to persons subject to the ABAWD work requirement be treated as an overissuance? If so, is the overissuance considered an agency or client error? What should be done in the case of persons subject to the ABAWD requirement as of December 1, 1996 but whose mandatory status is not discovered until a later date such as their next recertification?
- A Yes. Regulations at MPP Section 63-410.45 provide that food stamps received beyond the three-month limits identified in Sections 63-410 and 63-410.52 shall be considered overissuances and requirements at Section 63-801.1 shall apply. MPP Section 63-410.45 further provides that determinations of ineligibility should be made whenever the CWD learns that a nonexempt recipient has failed to meet the ABAWD requirement for more than three months within the 36-month period. If the CWD becomes aware that an individual has failed to meet the ABAWD requirement, but fails to act on this information, any food stamps inappropriately received would be considered an agency error. If, on the other hand, the CWD first discovers that a nonexempt recipient is ineligible due to failure to meet the ABAWD requirement until some time later, food stamps received beyond the three-month limit would be treated as an overissuance for which the recipient is responsible.
- Q Does a month in which a client fails to transact benefits count toward the three-month limit identified in MPP Section 63-410?
- A The Department is seeking Federal clarification regarding this question. Until counties receive further instructions, months in which benefits are not transacted shall not count toward the three-month limit for purposes of measuring ABAWD compliance.
- Q Are all food stamp work registrants subject to the ABAWD work requirement?
- A No. Food stamp work registrants shall be exempt from the ABAWD work requirement if they are:
- o Under 18 or over 50 years of age;
 - o pregnant;
 - o Responsible for care of a dependent (including a child over six years of age); or
 - o Living in an area where application of the ABAWD requirement has been waived.

- Q Currently, clients are not required to report changes in work registration exemptions with the exception of work-related exemptions. Work registration exemptions are evaluated at recertification. If an incapacitated client becomes able to work during the certification period, but this is not known to the CWD until recertification, will those months during which the client was able to work count toward the three month limit? Will benefits received for months beyond the three-month limit be treated as an overissuance?
- A Current regulations require medical verification (DFA 440) for a claim of incapacity. This form can also be used to track the ABAWD recipients if the incapacity is temporary. Any months in which the recipient is no longer exempt from the ABAWD work requirement will count toward the three-month limits identified in MPP Sections 63-410 and 63-410.52. Food stamps received beyond these limits are considered an overissuance if the ABAWD requirement is not met.
- Q When a client begins satisfying the ABAWD work requirement after receiving food stamps for the three months identified in MPP Section 63-410.52, at what point is the client again eligible for food stamps? For example, a client is discontinued for failing to satisfy the ABAWD work requirement during December of 1996 and January and February of 1997. The client regains eligibility in late March after working 80 hours during that month. In May, he informs the county that his hours have been reduced to 10 per week. The client receives food stamps for May, June, and July and then is denied eligibility. In September, he obtains employment of more than 20 hours per week and immediately reapplies for food stamps. Would the client be eligible in September, beginning with the date of application?
- A Persons denied eligibility after receiving food stamps for the three months identified in MPP Section 63-410.52 are again eligible as soon as they demonstrate that the ABAWD work requirement is being met. In the example under consideration, the client is immediately eligible upon application.
- Q What is the "hold harmless period" for implementation of the ABAWD provisions?

- A The "hold harmless" period for the ABAWD work requirement begins February 22, 1997 and ends June 22, 1997. Variances involving incorrect application of the ABAWD work requirement will be excluded from error determinations for the duration of the certification period for cases which are certified or recertified between February 22 and June 22, 1997.
- Q When a recipient is participating in a non-licensed Alcohol Recovery Home, are they exempt from the ABAWD work requirement?
- A Yes. The individual would be exempt from the ABAWD work requirement as specified in 63-507.47 and 63-407.21(f).
- Q Are funds available for administering requirements at MPP Section 63-410?
- A No additional federal funds have specifically been designated for use by counties in monitoring compliance with the ABAWD work requirement or in offering programs in which food stamp recipients may participate to satisfy this requirement. FSET funds may be used for this purpose only if applied to FSET administration and the delivery of services to persons satisfying the ABAWD work requirement by participating in FSET components other than job search.
- Q MPP Section 63-410.211 provides that weekly employment of at least 20 hours can be averaged monthly for purposes of compliance with the ABAWD work requirement. Can hours spent in allowable work programs also be averaged monthly?
- A Yes. Hours of participation can be averaged monthly in determining whether persons assigned to one of the work programs identified in MPP Section 63-410.213 have met the 20 hour weekly participation requirement. For example, an individual who participates in an activity for an average of 18 hours per week for weeks one, two, and three of February will have met the ABAWD requirement if he/she participates a minimum of 26 hours in week four.
- Q Can an individual satisfy the ABAWD work requirement by participating in a FSET job search component?
- A Hours spent in FSET job search components identified in MPP Section 63-407.841(a) will not count toward fulfillment of the ABAWD work requirement. However, time spent in job search activities which are part of a workfare assignment as described in Section 20(e) of the Food Stamp Act will count toward compliance with the ABAWD work requirement as does time spent in a job search assignment made under the Job Training Partnership Act (JTPA).

- Q With the implementation of ABAWD regulations, are counties required to limit the use of FSET funds to components in which a work registrant may participate to satisfy the ABAWD work requirement? Or, can these funds be used to administer any FSET component, including unsupervised job search?
- A FSET funds may be used to operate any component identified in a county's approved FSET plan.
- Q When an individual is disqualified for failing to satisfy the ABAWD work requirement and for committing an Intentional Program Violation (IPV), can the individual reestablish eligibility prior to completion of the IPV sanction?
- A No. The IPV sanction must first be served before the individual can reestablish eligibility by satisfying the ABAWD work requirement.
- Q Can months during which an individual is discontinued for failure to satisfy the ABAWD work requirement also be credited against the length of an IPV sanction?
- A No. Months during which an individual is ineligible due to failure to meet the ABAWD requirement will not reduce the length of an IPV penalty.

FOOD STAMP WORKFARE

- Q Section 20 (d)(2) of the Food Stamp Act specifies that the operating agency shall provide the same benefits and working conditions that are provided at the job site to employees performing comparable work for comparable hours. Does this mean benefits and working conditions comparable to workfare assignments or to a civil service or regular employee in a similar position?
- A The benefits and working conditions provided to workfare participants should be the same as those provided to paid employees performing similar work for a comparable number of hours.
- Q When determining hours of workfare participation for purposes of satisfying the ABAWD work requirement, should the amount of a recipient's General Assistance (GA) grant be added to the food stamp allotment before dividing by the minimum hourly wage?
- A No. Only the food stamp allotment is used when calculating hours of participation in a food stamp workfare assignment, including an assignment used to satisfy the ABAWD work requirement.

Q Must a workfare assignment involve a minimum of 20 hours weekly participation to satisfy the ABAWD work requirement? If not, please provide an example of how hours of participation should be calculated.

A No. A workfare assignment need not require at least 20 hours weekly participation for the ABAWD requirement to be considered satisfied. Monthly hours of workfare participation are determined by dividing the household's food stamp allotment by the higher of the Federal or state minimum wage. If this formula results in an average of fewer than 20 hours per week, the ABAWD requirement is still considered met if the recipient successfully participates for that number of hours in the workfare assignment.

For example, Bill becomes subject to the ABAWD work requirement and in February of 1997, he begins participating in a workfare assignment as part of the county's FSET program. Bill lives in a food stamp household of two whose allotment for February is \$220. Currently, both the Federal and state minimum wage are \$4.75 per hour. The household's allotment divided by the minimum wage equals 46.32. The maximum number of workfare hours which may be required of Bill in February is 46 hours or an average of 11.5 per week.

Q What is the difference between "workfare" and an "allowable work program" such as FSET?

A For purposes of satisfying the ABAWD work requirement, food stamp workfare differs from other allowable work activities only with respect to the level of required participation. With the exception of workfare, allowable work activities must involve a minimum of 20 hours weekly participation if the ABAWD work requirement is to be considered met.

Q Are hours of participation for allowable ABAWD activities, other than workfare, determined by dividing the household's food stamp allotment by the minimum hourly wage?

A No. This participation formula is only used when determining monthly hours of participation in a food stamp workfare assignment.

Q Section 20 of the Food Stamp Act, which defines workfare requirements, contains amendments made as part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). What is the revision date for Federal regulations to implement these amendments?

A Federal food stamp regulations, including workfare requirements at 7 CFR 273.22, have not yet been amended for consistency with Federal law as revised by the PRWORA.

Q Must counties offer a workfare program to all food stamp recipients not exempt from the ABAWD work requirement so that such persons will have a means by which to satisfy this requirement?

A No. Counties are not required to offer workfare or any other allowable activity strictly for the purpose of enabling individuals to comply with the ABAWD work requirement. However, a county may choose to offer workfare as part of its FSET program and FSET participants may satisfy the ABAWD requirement by participating in this component.

WORK REGISTRATION SANCTIONS

Q When a work registrant ends a food stamp sanction, must the registrant file a new application to be added to the food stamp household, even if information about the individual was listed on the original application?

A No. Current regulations at MPP Section 63-504.353 apply. The registrant can be added either through completion of the CA 8 or by updating the previous application.

Q Should food stamp sanctions be applied to those who receive Aid to Families with Dependent Children (AFDC) sanctions for failing to comply with Greater Avenues for Independence (GAIN) requirements?

A Yes. Public Assistance Food Stamp recipients sanctioned for GAIN noncompliance should also receive food stamp sanctions in accordance with MPP Section 63-407.5, regardless of whether the GAIN requirement failed is comparable to one of the food stamp work requirements at MPP Section 63-407.4. Previously, GAIN participants received food stamp sanctions only if the GAIN requirement failed was comparable to a food stamp work requirement.

Q What eligibility and sanction requirements apply when a food stamp work registrant, not exempt from the ABAWD work requirement, fails, without good cause, to participate in an FSET assignment or voluntarily quits a job which also satisfies the ABAWD requirement?

- A A registrant who fails to comply with an FSET assignment or voluntarily quits employment which satisfies the ABAWD work requirement should be sanctioned for a minimum of one, three, or six months, in accordance with MPP Section 63-407.53. If the registrant has failed to meet the ABAWD requirement for fewer than three months, he/she can end the sanction in accordance with MPP Section 63-407.6 or 63-408.6, as appropriate, as soon as the minimum sanction period is completed. If the registrant has received food stamps for three or more months without meeting the ABAWD requirement, he/she must participate in accordance with MPP Section 63-410.5 in order to regain eligibility. However, eligibility cannot be regained prior to completion of the minimum sanction period.
- Q In January of 1997, a county discovers that a work registrant quit a job in September of 1996 while in receipt of food stamps. The registrant had already been sanctioned once for quitting a job in May of that year. Do current sanction requirements apply? If so, is the May sanction counted when determining the minimum sanction length for the September quit?
- A No. Current sanction requirements would not apply and previous sanctions would not be considered. Sanctions imposed for noncompliant actions committed prior to November 12, 1996, shall last a maximum of two months for FSET noncompliance and three months for voluntary quit. The entire household is sanctioned if the noncompliant individual was the principal work registrant at the time of the violation. Acts of noncompliance committed on or after November 12, 1996 shall result in sanctions which apply only to the individual and last a minimum of one, three, or six months or until compliance is achieved. The minimum sanction length is based on the number of times an individual has been sanctioned since November 12.
- Q In March 1997, a work registrant receives a minimum one-month sanction for FSET noncompliance. He complies in May and the sanction ends. The registrant obtains employment, but in July, he quits the job without good cause. Is the FSET sanction counted when determining the minimum length of the voluntary quit penalty? Or, do voluntary quit sanctions get separate counts from those imposed for noncompliance with food stamp work requirements?
- A Voluntary quit and food stamp work requirement sanctions imposed after November 12 are considered when determining the minimum length of a registrant's period of

disqualification. In the example at hand, the registrant would receive a minimum three-month sanction for the voluntary quit.

- Q Can a registrant cure a sanction prior to completion of the one, three, or six-month period identified in MPP Section 63-407.53? If not, why are means provided by which a sanction may be ended?
- A No. A registrant cannot end a sanction prior to completion of the minimum period of one, three, or six months. After the minimum duration of a food stamp sanction, a registrant remains ineligible until he/she meets the exemption criteria or applicable participation requirements identified in MPP Sections 63-407.6 and 63-408.6.
- Q Is a client sanctioned if he/she quits his 35 hours per week job to accept a 25 hours per week job that pays the same or more?
- A No. Persons who reduce hours worked to less than 30 per week should not be sanctioned if earnings from the new job equal or exceed those of the previous job.
- Q Is a conciliation process required for those who fail to satisfy the ABAWD work requirement? What if the ABAWD activity failed is also an FSET assignment such as workfare?
- A No. Conciliation is not required for those who do not meet the ABAWD work requirement. Effective February 1, 1997, it is no longer required for noncompliant FSET participants. With the repeal of conciliation requirements, an FSET participant will receive food stamp sanctions following a determination of no good cause.
- Q Is the determination of principal work registrant still required?
- A No. When imposing food stamp sanctions, the county is no longer required to determine whether the noncompliant individual is the principal work registrant as only the individual is sanctioned, regardless of his earned income or designation as head of household.
- Q What is the effective date of the sanction for a work registrant who fails without good cause to comply with food stamp work requirements, who reduces hours worked to less than 30 per week, or voluntarily quits employment?

- A A food stamp sanction shall begin with the first month following issuance of the appropriate notice as required by MPP Section 63-407.52 or 63-408.21 provided the timely notice requirements of MPP Section 22-022 are met.
- Q How can an individual reestablish eligibility after receiving a voluntary quit sanction?
- A An individual sanctioned for voluntarily quitting employment may reestablish eligibility after completion of the minimum sanction period identified in MPP Section 63-407.53 by either securing employment that is comparable in salary or hours to the job that was quit or by becoming exempt in accordance with MPP Section 63-407.21 (a), (b), (d), (f), (g), or (h).
- Q If a member of the household receives a food stamp sanction, are his/her income and resources treated like those of a disqualified member? If yes, is the change in budgeting made retrospectively for the sanction period?
- A Yes. Per MPP Section 63-503.441, the income and resources of a sanctioned individual are treated like those of a disqualified member. They are budgeted retrospectively and counted in their entirety when determining the eligibility and benefit level of remaining household members.
- Q If a person who works over 30 hours per week is exempt from work registration, how can they be sanctioned for reducing their hours to less than 30 per week?
- A At the time an individual reduces hours to less than 30 per week, he/she no longer qualifies for the exemption at MPP Section 63-407.21(g). Therefore, sanctions should be applied, unless the individual has good cause for the noncompliance or meets other exemption criteria. This policy also applies to persons who voluntarily quit employment (compare MPP Section 63-407.551 and 63-408.31).

FOOD STAMP NOTICE OF DISQUALIFICATION

COUNTY OF _____

ENCLOSURE III
STATE OF CALIFORNIA
HEALTH AND WELFARE AGENCY
DEPARTMENT OF SOCIAL SERVICES

NOTICE DATE : _____
CASE NAME : _____
NUMBER : _____
WORKER NAME : _____
NUMBER : _____
TELEPHONE : _____
ADDRESS : _____

(ADDRESSEE)

Questions? Ask Your Worker

State Hearing: If you think this action is wrong, you can ask for a hearing. The back of this page tells how. Your benefits may not be changed if you ask for a hearing before this action takes place.

The County is taking the following action because _____ did not follow the Food Stamp work rules.

As of _____,

- ☐ _____ is denied receipt of Food Stamps.
- ☐ _____ is disqualified from the Food Stamp Program.
- ☐ The amount of your household's food stamps will be changed from _____ to _____.
- ☐ Other _____

To get Food Stamps again, _____ must reapply after _____ and be eligible. To be eligible, that person must:

- Be exempt from the Food Stamp work rules, or
- Take action to end the disqualification or denial.

If your household had other changes you will get another notice.

WHY FOOD STAMPS ARE BEING STOPPED OR DENIED

HOW TO GET FOOD STAMPS

- ☐ Didn't keep an appointment/
Didn't give us information we asked for.

Call us/
Give us the information.

- ☐ Didn't go to a job.

Go to a job if it is still available or go to another job when sent.

- ☐ Turned down a job.

Take the job if it is still there or find another job. The other job must either be at least 30 hours per week, or pay as much per week as:

- The job you turned down, or
- The Federal minimum wage times 30.

- ☐ Changed the number of hours worked to less than 30 hours per week.

Increase the hours worked to at least 30 hours per week.

- ☐ Quit a job.

Get the job back if it is still open, or find another job with at least the same pay or hours as the one quit.

- ☐ Didn't go on a job search, work assignment, to school, or to training.

Start doing the assignment we give you.
Call or see us. We will tell you what to do.

- ☐ Other.

The person listed above may also need to meet the Able-Bodied Adult Without Dependents (ABAWD) work rule. If that person is ineligible for food stamps because they have not met that rule for enough months to keep getting food stamps, another notice will be sent telling them what they need to do to get food stamps again.

RULES: These rules apply. You may review them at your welfare office.

MPP ☐ 63-407 ☐ 63-408 ☐ Other

FOOD STAMP NOTICE OF DISCONTINUANCE

COUNTY OF _____

STATE OF CALIFORNIA
HEALTH AND WELFARE AGENCY
DEPARTMENT OF SOCIAL SERVICES

NOTICE DATE : _____
CASE NAME : _____
NUMBER : _____
WORKER NAME : _____
NUMBER : _____
TELEPHONE : _____
ADDRESS : _____

(ADDRESSEE)

Questions? Ask Your Worker

State Hearing: If you think this action is wrong, you can ask for a hearing. The back of this page tells how. Your benefits may not be changed if you ask for a hearing before this action takes place.

As of _____, food stamps will be discontinued for _____.

- ☐ The County is taking this action because _____ has not followed the Able-Bodied Adults Without Dependents (ABAWD) work rule for:
- | | |
|-------------------------|-------------------------|
| first month/year _____ | third month/year _____ |
| second month/year _____ | fourth month/year _____ |
- ☐ and has not provided proof that the rule has been met for _____.

The ABAWD work rule says that each month this person must work an average of 20 hours or more per week, participate in a workfare assignment, or participate in a work assignment for 20 or more hours per week.

- ☐ This is the first time in the 36-month period that started _____ that this person had their food stamps discontinued for not following the ABAWD work rule. To get food stamps again, this person must work 80 or more hours in a 30-day period, participate in a workfare assignment, participate in a work assignment 80 or more hours in a 30-day period, or become exempt.
- ☐ This is at least the second time that this person had their food stamps discontinued in the 36-month period that started _____ because they did not follow the ABAWD rule. To get food stamps again, this person must work an average of 20 hours per week, participate in a workfare assignment, participate in a work assignment an average of 20 hours per week, or become exempt.

To get food stamps again, _____ must be eligible. To be eligible, that person must:

- Be exempt from the ABAWD work rule; or
- Show proof by _____ that they followed the ABAWD work rule or were exempt for any or all of the months listed above; or
- End the discontinuance in the way described above.

Even if _____ does not become exempt or follow the ABAWD work rule, they may become eligible again in _____. They may reapply at that time.

If your household had other changes you will get another notice.

If the failure to meet the ABAWD work rule also causes a Food Stamp penalty, that person may not be able to get food stamps for at least 1, 3, or 6 months. That person will get another notice telling them how long their food stamps will be stopped.

COMMENTS

RULES: These rules apply. You may review them at your welfare office.

MPP ☐ 63-410 ☐ Other _____